in failing to discover the fraud was not the proximate cause of the unauthorized payment. See *Crawford* v. *West Side Bank*, 100 N. Y. 50. The assumption that the payee was fictitious does not make the check payable to bearer, for the plaintiff was ignorant of this fact. MASS. REV. LAWS, c. 73, § 26. Nor upon this assumption is the drawee relieved of his duty to ascertain the genuineness of indorsements; for the likelihood of deception is not thereby increased. See *Armstrong* v. *National Bank*, 46 Oh. St. 512. The result reached is just, since, at the time of payment, the bank alone is in a position to detect the forgery.

CONFLICT OF LAWS — RECOGNITION OF FOREIGN JUDGMENT — SUBMISSION BY CONTRACT TO FOREIGN JURISDICTION. — By a clause in a contract between the plaintiff, a French subject, and the defendant, an English subject, the latter agreed that in case of breach the French tribunals alone should have jurisdiction. The defendant having committed a breach, the plaintiff brought an action in France. Service of the writ was in accordance with the French code, effected by leaving it at the office of the Procureur-Général. The writ was also sent to the French consulate in London, and the defendant notified at his residence there. The plaintiff recovered judgment by default and sued the defendant in England on this French judgment. *Held*, that the defendant is liable. *Jeannot* v. *Fuerst*, 25 T. L. R. 424 (Eng., K. B., March 19, 1909).

For a discussion of a similar case of jurisdiction by contractual consent, see 15 HARV. L. REV. 746; and for the general principles involved, see 20 *ibid.* 323.

CONSTITUTIONAL LAW — IMPAIRMENT OF THE OBLIGATION OF CONTRACT — CHANGE OF REMEDIES. — The United States recovered a judgment against the defendant city based on a contract payable from current taxes. At the time when the contract was made the property taxable was required to be assessed by the city recorder at its full value. Subsequently a state statute required all assessments to be made by a county assessor, whose assessments were to be reviewed, first by the county board, and next by the state board of equalization, and this assessment to be copied by the city recorder for city purposes. *Held*, that, as against the United States, the statute is void as impairing the obligation of its contract by a change of remedy. *City of Cleveland* v. *United States*, 166 Fed. 677 (C. C. A., Sixth Circ.).

For a discussion of the principles involved, see 19 HARV. L. REV. 133.

CONTEMPT — POWER TO PUNISH FOR CONTEMPT — WHETHER PROCEEDINGS TO PUNISH ARE CRIMINAL PROCEEDINGS. — An injunction was granted against members of a labor union restraining them from interfering with the business of the complainant. In a proceeding against the members of the union to punish them for contempt for a criminal conspiracy to violate the injunction, a deposition given by one of the defendants in answer to a subpœna *duces tecum* was offered as evidence. *Held*, that this is a criminal proceeding and therefore the deposition is inadmissible. *Hammond Lumber Co.* v. *Sailors' Union of the Pacific*, 167 Fed. 809 (C. C , N. D. Cal.).

Proceedings in contempt are of two classes, civil and criminal. When they are instituted by private individuals for the purpose of protecting or enforcing private rights, either by payment of a fine to the aggrieved party, or by attachment of the contemnor's property, they are remedial and civil in their nature. *Worden* v. *Searls*, 121 U. S. 14. When, however, as is usually the case, the proceedings are to protect and vindicate the power of the court, they are criminal. A wilful violation of a court's negative injunction is universally held to be a criminal contempt. See *Bullock Electric & Manufacturing Co.* v. *Westinghouse Electric & Manufacturing Co.*, 129 Fed. 105. And the fact that it has arisen in a civil action in no way tends to change the nature of the proceeding for its correction. *New Orleans* v. *Steamship Co.*, 20 Wall. (U. S.) 387. In any event contempt proceedings are always criminal in respect to one not a party to the original suit. *Bessette* v. *Conkey Co.*, 194 U. S. 324. So in all these

cases of criminal contempt the person charged is entitled to notice and a hearing. *Reymert* v. *Smith*, 5 Cal. App. 380. And a judgment is void if made in his absence. *Ex parte Mylius*, 61 W. Va. 405. The charge must be proved beyond a reasonable doubt. *In re Jose*, 63 Fed. 951. And judgments are subject to review only in the manner provided for criminal cases. *Ex parte Debs*, 158 U. S. 64. Nor can the person charged be forced to testify against himself. *Ex parte Gould*, 99 Cal. 360.

COPYRIGHTS — INFRINGEMENT — MOVING PICTURES OF COPYRIGHTED DRAMA. — The plaintiff owned the copyright of the book "Ben Hur" and also the copyright of a dramatization of it. The defendant reproduced with living models certain scenes in the book and photographed them for use in moving picture machines. He sold the films to theatres for public reproduction. The Copyright Act gives to the author of a book or his assigns the sole right to dramatize it, and to the owner of a copyrighted "dramatic composition" the sole right of producing it publicly. *Held*, that the defendant is liable for infringing both copyrights. *Harper Brothers* v. *The Kalem Company*, 61 N. Y. L. J. 251 (C. C. A., Second Circ., March, 1909).

It is now settled that an author's right against infringement rests entirely upon statute. *Stern* v. *Rosey*, 17 App. D. C. 562. A descriptive or dramatic song may be within a statute protecting "dramatic pieces." *Fuller* v. *The Blackpool, etc., Co.*, [1895] 2 Q. B. 429. And a pantomime is likewise protected. *Lee* v. *Simpson*, 3 C. B. 871. But a stage dance is not a "dramatic composition" within the meaning of the statute. *Fuller* v. *Bemis*, 50 Fed. 926. The same has been held of a stage spectacle. *Martinetti* v. *Maguire*, 1 Abb. (U. S.) 356. But this latter decision was probably influenced by the immoral nature of the spectacle; for, as a general rule, a series of events dramatically represented in a certain sequence is a dramatic composition, whether accompanied by words or not. See *Daly* v. *Palmer*, 6 Blatchf. (U. S.) 256. The principal case considers it immaterial whether the representation is by actors or by moving pictures. Two considerations are to be counterbalanced: the protection of the author's enjoyment of the fruits of his labor and the securing to others of a fair use of the author's creation. The application of these principles, it is believed, will lead to the result of the present case.

CORPORATIONS — CITIZENSHIP OF CORPORATION — EFFECT ON FEDERAL JURISDICTION OF INCORPORATION IN TWO STATES. — A corporation of state A doing business in state B took out a charter in state B. A citizen of state B sued the corporation, which then petitioned for removal to the federal courts on the ground of diversity of citizenship. *Held*, that for purposes of federal jurisdiction the corporation is a citizen of state A. *Atlantic Coast Line R. R. Co.* v. *Dunning*, 166 Fed. 850 (C. C. A., Fourth Circ.).

The cases are in confusion as to the effect of incorporation in two states. See *Taylor* v. *Ill. Cent. R. R. Co.*, 89 Fed. 119; *M. & C. R. R. Co.* v. *Alabama*, 107 U. S. 581; 13 HARV. L. REV. 597. A corporation is a juristic person whose citizenship depends on the place of incorporation regardless of the citizenship of the shareholders. *Hatch* v. *Chic., etc., R. R. Co.*, 6 Blatchf. (U. S.) 105. One corporation cannot consistently be a citizen of two states. It may be argued, however, that double incorporation creates two corporations, each the agent of the other. See *Ohio, etc., R. R. Co.* v. *Wheeler*, 1 Black (U. S.) 286. When two states unite in the initial incorporation, this view is especially applicable. On the other hand, a legislature may by the so-called second incorporation intend merely to extend to a foreign corporation the privileges of citizenship. See *St. Louis, etc., Ry.* v. *James*, 161 U. S. 545, 562. It may attach as a condition to these privileges the liabilities of domestic corporations in local matters such as taxation. *Southern Ry.* v. *Allison*, 190 U. S. 326. But such legislation does not actually change the citizenship of the corporation: it still remains a citizen of the state where it was first incorporated. No state can deprive such a corporation of its constitutional right to demand trial in the federal courts. The question of federal jurisdiction may thus depend on whether the legislature intends to create a new corporation or merely to license the old. See *Penn. Co.* v. *St. Louis & Alton R. R. Co.*, 118 U. S. 290, 296.